

WEISS & JONES, LLP  
Philip E. Weiss (No. 152523)  
1551 Shelter Island Drive  
San Diego, California 92106  
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Attorneys for Plaintiff  
SHELTER ISLAND YACHTWAYS, LTD,  
a California Limited Partnership,  
dba SHELTER ISLAND BOATYARD

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SHELTER ISLAND YACHTWAYS, LTD, a  
California Limited Partnership, dba SHELTER  
ISLAND BOATYARD,

Plaintiff,

v.

M/Y SUNDANCE, Official No. 521498, A  
HATTARAS MOTORYACHT OF  
APPROXIMATELY 33 FEET IN LENGTH  
AND 12 FEET IN BEAM, AND ALL OF HER  
ENGINES, TACKLE, ACCESSORIES,  
EQUIPMENT, FURNISHINGS AND  
APPURTENANCES, *in rem*,

Defendant.

Civil No. 07 CV 2015 DMS WMc  
IN ADMIRALTY

DECLARATION OF PHILIP E.  
WEISS IN SUPPORT OF REQUEST  
TO ENTER DEFAULT

I, Philip E. Weiss, declare under penalty of perjury under the laws of the United States and the State of California the following is true and correct:

1. I am an attorney in good standing, licensed to practice before all State and Federal Courts located in the State of California, including this Honorable Court. I am counsel of record of the Plaintiff in this action, SHELTER ISLAND YACHTWAYS, LTD, a California Limited Partnership, dba SHELTER ISLAND BOATYARD.

2. This Declaration is offered in support of Plaintiff SHELTER ISLAND YACHTWAYS, LTD's request that the Clerk of the above-entitled Court enter a Default in this action against the *in rem* Defendant Vessel: M/Y SUNDANCE, Official No. 521498, A

1 HATTARAS MOTORYACHT OF APPROXIMATELY 33 FEET IN LENGTH AND 12  
2 FEET IN BEAM.

3 3. On October 17, 2007 I caused Plaintiff's Verified Complaint to be filed with  
4 this Court.

5 4. As more fully appearing from and evidenced by a Process Receipt and Return  
6 (U.S. Marshal Form 285) which has been executed by the U.S. Marshal, service was effected  
7 on the Defendant Vessel on November 8, 2007 by the United States Marshal's office, which  
8 on that date posted the Verified Complaint and other vessel arrest documents on the  
9 Defendant Vessel and took her into custody. A true and correct copy of this Process Receipt  
10 and Return is attached hereto as Exhibit A.

11 5. In addition, service of the Summons, the Verified Complaint and other documents  
12 offered in connection with and in support of the instant vessel arrest in this action was effected on  
13 October 17, 2007 on the documented owner of the DEFENDANT VESSEL, as evidenced by the  
14 Declaration of Service which is hereto attached hereto as Exhibit B and which in on file in this  
15 action:

16 Mr. Wayne Oliver  
17 P.O. Box 3179  
18 Kerby, OR 97531-3179

[Defendant Vessel's Documented Owner]

19 Neither the above named individual, nor any other person or entity, have intervened or  
20 otherwise appeared in this action, and none has responded to the Verified Complaint on behalf of the  
21 Defendant Vessel within the time prescribed by the Federal Rules of Civil Procedure.

22 6. No party or person has, as required by Supplemental Admiralty Rule C(6)(a)(i), filed  
23 a Statement of Interest in or Right Against the Property within 30 days after publication is completed  
24 pursuant to Supplemental Admiralty Rule C(4). The completion of the required publication is  
25 evidenced by the true and correct copy of the U.S. Marshal Certificate of Publication attached hereto  
26 as Exhibit C.

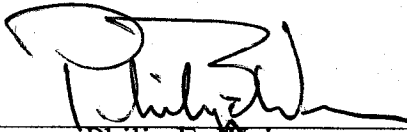
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1 7. I respectfully urge that the Clerk of this Honorable Court enter the Default of the  
2 *in rem* Defendant Vessel.

3 Executed this 17<sup>th</sup> day of December, 2007 at San Diego, California.

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Philip E. Weiss

7 c:\sib\weiss declaration support request enter default.wpd  
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U.S. Department of Justice  
United States Marshals Service

**PROCESS RECEIPT AND RETURN**

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF	SHUTTER ISLAND YACHTWAYS, A CALIFORNIA LIMITED PARTNERSHIP AND SHUTTER ISLAND BOATYARD	COURT CASE NUMBER	07 CV 2015 DMS WMC
DEFENDANT	MISS SAUNDICE LINDA PATRICIA HARRIS, a Hattaras approximately 33 feet in length and 12 feet in beam and 12 feet in beam on either end, JACKIE BOSSON, in rem	TYPE OF PROCESS	IN REM VESSEL SEIZURE
<b>SERVE</b>	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN		
<b>AT</b>	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)		
	SHUTTER ISLAND BOATYARD, 2330 SHUTTER ISLAND DR., SAN DIEGO, CA 92116		

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

WEISS & JONES  
ATTN: PHILIP L. WEISS, ESQ.  
1551 SHUTTER ISLAND DRIVE  
SAN DIEGO, CA 92116

Number of process to be served with this Form - 285

Number of parties to be served in this case

Check for service on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

PLEASE SEIZE, take into custody and post complaint against documents on the defendant vessel, MISS SAUNDICE, HIGHER NO. 521476, a Hattaras approximately 33 feet in length and 12 feet in beam, where she lies at SHUTTER ISLAND BOATYARD, as instructed by court order as soon as possible. Please contact Bill Roberts or Ray Hobbs, manager at 619-222-0481, in advance to advise of date and time of seizure. Thank you.

Signature of Attorney or other Originator requesting service on behalf of:

☒ PLAINTIFF  
☐ DEFENDANT

TELEPHONE NUMBER

DATE

619-225-8884

10-16-07

**SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE**

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
	1	CA	CA	[Signature]	10-16-07

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks". the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

Address (complete only if different than shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Date of Service: 10/15/07 Time: 10:20 am

Signature of U.S. Marshal or Deputy

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
\$15	5.38		\$50.38			

REMARKS:

**NOTE**

1 WEISS & JONES  
Philip E. Weiss, Esq. (No. 152523)  
2 1551 Shelter Island Drive  
San Diego, California 92106  
3 Telephone: (619) 225-8884  
Facsimile: (619) 225-8801

4 Attorney for Plaintiff  
5 SHELTER ISLAND YACHTWAYS, LTD,  
a California Limited Partnership,  
6 dba SHELTER ISLAND BOATYARD

7  
8  
9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 '07 CV 2015 DMS WMc

12 SHELTER ISLAND YACHTWAYS, LTD, a  
California Limited Partnership, dba SHELTER  
13 ISLAND BOATYARD,

14 Plaintiff,

15 v.

16 M/Y SUNDANCE, Official No. 521498, A  
HATTARAS MOTORYACHT OF  
17 APPROXIMATELY 33 FEET IN LENGTH  
AND 12 FEET IN BEAM, AND ALL OF HER  
18 ENGINES, TACKLE, ACCESSORIES,  
EQUIPMENT, FURNISHINGS AND  
19 APPURTENANCES, *in rem*,

20 Defendant.

Case No.

IN ADMIRALTY

DECLARATION OF SERVICE

F.R.C.P. Supplemental Admiralty  
Rules C and E.

46 U.S.C. Sections 30101-31343

21  
22 DECLARATION OF SERVICE

23 STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

24 I am employed in San Diego County, State of California. I am over the age of eighteen (18)  
25 and not a party to this action; my business address is 1551 Shelter Island Drive, San Diego,  
26 California 92106. On October 17, 2007, I served the following document(s) described as:

- 27 - Summons in a Civil Action  
28 - Civil Cover Sheet

DECLARATION OF SERVICE

Page -1-

Case No.

EXHIBIT

**B**



- 1       –   **Verified Complaint of Plaintiff Shelter Island Yachtways For Vessel Arrest,**
- 2           **Interlocutory Sale And for Money Damages for: (1) Trespass, (2) Fraud In The**
- 3           **Inducement, (3) Breach Of Implied Maritime Contract, (4) Quantum Meruit**
- 4       –   **Ex Parte Application for Order Authorizing Issuance of a Warrant for Arrest of**
- 5           **Defendant Vessel**
- 6       –   **Declaration of Philip E. Weiss In Support of Vessel Arrest**
- 7       –   **[Proposed] Order Authorizing Arrest of Defendant Vessel Pursuant to**
- 8           **Supplemental Admiralty Rule C**
- 9       –   **Application for Appointment of Substitute Custodian and for Authorization for**
- 10           **Movement of Defendant Vessel**
- 11       –   **Declaration of Roy Hobbs In Support of Ex Parte Application for Order**
- 12           **Appointing Substitute Custodian**
- 13       –   **[Proposed] Order Appointing Substitute Custodian and Authorizing Movement of**
- 14           **Vessel**
- 15       –   **Warrant for Action In Rem**
- 16       –   **Notice of Vessel Arrest**

17       on the interested parties in Case No. \_\_\_\_\_ by placing ☐ the original  
 18 ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

19       Mr. Wayne Oliver

20       P.O. Box 3179

21       Kerby, OR 97531-3179

22       ☐ **(BY PERSONAL SERVICE):** Personal service accomplished by ☐ attorney service or  
 23       ☐ \_\_\_\_\_, employed by Weiss & Jones.

24       ☐ **(BY FACSIMILE AS INDICATED ABOVE):** I caused the foregoing document(s) to be  
 25       sent via facsimile transmission to the above addressee(s) at the facsimile numbers indicated above.

26       ☒ **(BY MAIL AS INDICATED ABOVE):** As follows: I am "readily familiar" with the firm's  
 27       practice of collection and processing correspondence for mailing. Under that practice it would be  
 28       deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego,

DECLARATION OF SERVICE

Page -2-

Case No.

**EXHIBIT**

**B**

1 California in the ordinary course of business. I am aware that on motion of the party served, service  
2 is presumed invalid if postal cancellation date or postage meter date is more than one day after  
3 deposit for mailing in affidavit.

4 ☐ (STATE): I declare under penalty of perjury under the laws of the State of California that  
5 the foregoing is true and correct.

6 ☒ (FEDERAL): I declare that I am employed in the office of a member of the bar of this court  
7 at whose direction the service was made.

8 Dated: October 17, 2007

Tamara A. Geehan

Tamara A. Geehan

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## CERTIFICATE OF PUBLICATION

RECEIVED

2007 NOV 14 A 2:04

U.S. MARSHAL  
SOUTHERN DISTRICT OF  
CALIFORNIAAndrea Scott  
US Marshal  
940 Front Street, Room B-150  
San Diego CA 92101IN THE MATTER OF  
Vessel Arrest M/Y SUNDANCECASE NO.  
07-CV 2015

I, Jacqueline R. Burnett, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not party to or interested in the above entitled matter. I am the principal clerk of the San Diego Transcript, a newspaper of general circulation, printed and published daily, except on Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

## Notice of Vessel Arrest

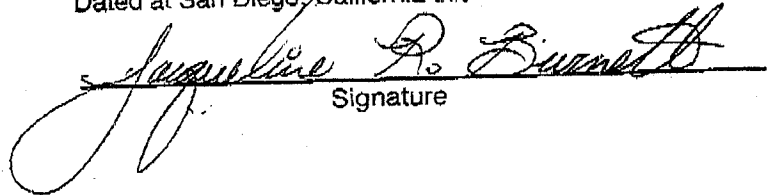
is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

November 9

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this November 9, 2007

Signature



IN ADMIRALTY  
NOTICE OF VESSEL ARREST  
F.R.C.P. Supplemental Rule C and E  
46 U.S.C. Sections 90101-91343

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF  
CALIFORNIA

Case No. 07-CV-2015  
SHELTER ISLAND YACHTWAYS,  
LTC, a California Limited Partnership  
dba SHELTER ISLAND BOATYARD,  
Plaintiff  
vs.  
M/Y SUNDANCE, Official No. 521488, A  
Hatteras Motoryacht of  
APPROXIMATELY 33 FEET IN LENGTH  
AND 12 FEET IN BEAM AND ALL OF  
HER ENGINES, TACKLE,  
ACCESSORIES, EQUIPMENT,  
FURNISHINGS AND  
APPURTENANCES, in rem,  
Defendant.

NOTICE IS HEREBY GIVEN  
pursuant to Rules C and E of the  
Supplemental Rules for Certain  
Admiralty and Maritime Claims of the  
Federal Rules of Civil Procedure and  
Local rules of the United States District  
Court in and for the Southern District of  
California that on the 8th day of  
November, 2007, the United States  
Marshal arrested, seized, and took into  
its possession the vessel, M/Y  
SUNDANCE, Official No. 521488, a  
Hatteras Motoryacht of approximately  
33 feet in length and 12 feet in beam,  
AND ALL OF HER ENGINES, TACKLE,  
ACCESSORIES, EQUIPMENT,  
FURNISHINGS AND  
APPURTENANCES, for the causes set  
forth in the Verified Complaint, to wit:  
Trespass, Fraud in the Inducement,  
Breach of Implied Maritime Contract,  
and Quantum Meruit, now pending in the  
United States District Court for the  
Southern District of California at San  
Diego.

The amount demanded in the Verified  
Complaint is a sum of \$65,000 per day  
beginning September 17, 2007, and  
continuing until such time as the  
DEFENDANT, VESSEL, is either  
removed from Plaintiff premises or  
until she is taken into custody by the  
U.S. Marshal pursuant to Order of this  
Court, plus pre-judgment interest and  
costs of suit (including attorney's fees).

This Arrest was made pursuant to an  
Order and Warrant for Arrest issued by  
the Clerk of the Court on or about  
November 8, 2007.

I hereby give notice to all persons  
claiming any interest in said  
DEFENDANT, VESSEL, or having  
anything to say why the same should  
not be condemned and forfeited, that  
they file their claims pursuant to Rule  
C(6) Supplemental Rules to the Federal  
Rules of Civil Procedure with the Clerk  
of the United States District Court, at  
San Diego, and serve a copy of it on  
attorneys for Plaintiff, WEISS &  
JONES, LLP, within ten (10) days after  
the date of this publication, or within  
such additional time as the Court may  
allow, and must serve their answers  
within twenty (20) days after the filing of  
their claims, and that all interested  
persons should file claims and answers  
within the times so fixed; otherwise,  
default will be noted and condemnation  
ordered against any such person not so  
appearing.

Dated November 8th, 2007  
Steven C. Stafford  
Acting U.S. Marshal  
By/s/ Toni Whitley, Deputy U.S.  
Marshal  
SUBMITTED ON OCTOBER 29, 2007  
WEISS & JONES  
By/s/ Philip E. Weiss  
Attorneys for Plaintiff  
SHELTER ISLAND YACHTWAYS, LTC,  
a California Limited Partnership, dba  
SHELTER ISLAND BOATYARD  
Pub. Nov. 9-20072832

EXHIBIT

C